

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

(1) EILEEN COONCE,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 17-CV-279-RAW
)	
(1) AUTOMOBILE CLUB OF AMERICA)	
(2) AAA FIRE & CASUALTY INSURANCE)	
COMPANY (3) CSAA FIRE & CASUALTY)	
INSURANCE COMPANY,)	
)	
Defendants.)	

MOTION TO SET ASSET HEARING

COMES NOW, Defendant/Judgment Creditor, CSAA Fire & Casualty Insurance Company (“CSAA”), by and through its counsel of record, James N. Edmonds and Kirsten L. Palfreyman, and requests the Court for an Order directing Plaintiff/Judgment Debtor to appear at an asset hearing on a date set by the Court, with certain of her records and answer, under oath, questions concerning non-exempt property that may be used to satisfy the judgment in this action. Defendant/Judgment Creditor further urges the Court for an order enjoining Plaintiff/Judgment Debtor from alienating, concealing, or encumbering any of the judgment debtor’s nonexempt property pending the hearing and further order of the Court. In support of said Motion, Defendant/Judgment Creditor states as follows:

1. Plaintiff Coonce’s action against Defendant CSAA in this Court was dismissed on December 12, 2017. [Docket Nos. 32 & 33].
2. Defendant CSAA was awarded attorney’s fees against Plaintiff Eileen Coonce in an Order from this Court on January 30, 2018. [Docket No. 41].

3. Defendant CSAA was awarded attorney's fees in the amount of \$13,273.00, as well as litigation expenses in the amount of \$467.13, against Plaintiff Eileen Coonce. [Docket No. 41].

4. Plaintiff Coonce filed a Notice of Appeal on January 8, 2018, and the United States Tenth Circuit Court of Appeals affirmed this Court's grant of dismissal of Plaintiff Coonce's action against Defendant CSAA. [Docket No. 43].¹

5. Defendant CSAA has not been able to confirm what non-exempt property, if any, may be subject to execution to satisfy the judgments for attorney's fees and appellate attorney's fees.

6. Under Fed. R. Civ. P. 62, the time period staying executions on this Court's original order awarding attorney's fees has expired and Defendant CSAA is entitled to execute on the same.

7. Defendant CSAA requests the Court enter an Order to Appear and Answer as to Assets directing Coonce to appear on a date certain at an asset hearing, and restraining her from mortgaging, encumbering, alienating, or otherwise disposing of any property until further order of the Court.

8. Defendant CSAA further requests the Court require Coonce to bring a copy of the following financial documents to the aforementioned asset hearing:

- A. Records of income for the past two years;
- B. Bank statements for the past two years;

¹ Additionally the Tenth Circuit awarded appellate attorney's fees on October 15, 2018, but remanded the determination of the amount of fees to be awarded to this Court. [Docket No. 46]. Upon referral, Magistrate Judge West entered her findings and recommended an award in favor of Defendant CSAA for appellate attorney's fees in the amount of \$7,037.50. [Docket No. 51]. Per the Findings and Recommendation, Plaintiff Coonce had until January 25, 2019 to file an objection to the Findings and Recommendation. Plaintiff Coonce has not filed an objection as of the date of this Motion.

- C. Income tax return copies for the past two years;
 - D. Legal description and/or deeds of all real estate owned;
 - E. Automobile titles;
 - F. Accounting books of any business owned;
 - G. Stocks, bonds, and securities owned;
 - H. Safe deposit box information, if any;
 - I. Records of any and all other property owned or that is held in trust by another on your behalf;
 - J. Contracts, business records, or other documents showing ownership of an interest in any business.
9. A proposed Order granting the relief sought herein is submitted for the Court's review.

WHEREFORE, Defendant/Judgment Creditor requests this Court enter an Order requiring and directing Plaintiff/Judgment Debtor to appear before a Judge of this Court at a specific date and time to answer concerning her property, and enjoining Plaintiff/Judgement Debtor from alienating, concealing, or encumbering any of her nonexempt property, pending the hearing and further order of the Court.

Respectfully submitted,

**ATKINSON, HASKINS, NELLIS,
BRITTINGHAM, GLADD & FIASCO**

A PROFESSIONAL CORPORATION

/s/ Kirsten L. Palfreyman

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Attorneys for Defendant,

CSAA Fire & Casualty Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of January, 2019, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Mark S. Stanley (mstanley@csmlaw.us)

Stanley & Morgan

7105 E. Admiral Place, Ste. 100

Tulsa, Oklahoma 74115

Attorney for Plaintiff

/s/ Kirsten L. Palfreyman

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